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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

DHILLON, MANJOT K

ART UNIT

PAPER NUMBER

3714

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/804,689	Applicant(s) MATTICE ET AL.	
	Examiner MANJOT K. DHILLON	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 38-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/10/08 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/10/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This office action is in response to applicant's response filed on 12/10/08.

Applicant amends claim 38, adds claims 48 and 49 and responds to rejections. Claims 38-49 are pending.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 38 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It is unclear to the Examiner as to how the at least one of the main controller and the touch position calculator are configured to determine the frequency of operation from a plurality of frequencies. The specification lacks details relating to this claim.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 38, 48 and 49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to the Examiner which plurality of frequencies are used to allow the main controller and the touch position calculator to determine the frequency of operation. Furthermore, the terms "plurality of ambient levels" and "plurality of frequencies" are vague in indefinite terms and lack to distinctly claim the subject matter which is the invention.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 38-47 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Bertram et al. (US 6476798 B1).

Concerning claim 38, Bertram et al. teaches a gaming apparatus/method, comprising: a display unit; a value input device; a touch screen unit including **[column 2, lines 8-11]**: a sinusoid generator coupled to a first electrode of a touch screen, the sinusoid generator adapted to generate a first sinusoidal signal having a frequency **[column 4, lines 24-27, and fig. 4]**, the sinusoid generator comprising a modification device configured to modify the frequency of operation of the first electrode **[column 4, line 16- column 5, line 34]**; a first sensor coupled to the first electrode to generate a first sensed signal indicative of a signal flowing from the first electrode **[column 4, lines 24-27]**; a first multiplier having a first input coupled to the first sensor **[column 4, lines 43-46]**, and an output; a first low pass filter having an input and an output **[fig. 4, items 426 and 440]**, the input of the first low pass filter coupled to the output of the first multiplier **[fig. 4]**. A band pass filter can be a low pass filter by passing all the low frequencies and not allowing any high frequencies though, therefore a band pass filter anticipates, or is an obvious variant of, a low pass filter.

Bertram et al. teaches a first amplitude calculator having a first input, a second input, and an output, wherein the first input of the first amplitude calculator is coupled to the output of the first low pass filter **[column 6, line 52- column 8, line 25]**. Bertram et

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al. teaches a touch position calculator having a first input coupled to the output of the amplitude calculator, wherein the touch position calculator is adapted to generate an estimate of a touch position based on the output of the first amplitude calculator

[column 5, lines 40-60; column 8, lines 36-50].

Bertram et al. teaches a main controller operatively coupled to the display unit, the value input device, and the touch screen unit, the main controller comprising a main processor and a main memory operatively coupled to the main processor, the main controller being programmed to receive value input data via the value input device **[figs. 6a and 6b]**.

Bertram et al. teaches the main controller being programmed to cause the display unit to generate a first game display relating to one of the following games: poker, blackjack, slots, keno or bingo, the main controller being programmed to receive player input data via the touch screen unit **[column 2, lines 8-11]**, the main controller being programmed to determine a value payout associated with an outcome of the game. Using the touch screen with an electronic slot machine encompasses games such as: poker, blackjack, slots, keno, bingo or any other game which all would determine payout according to the game played. This is something that at the time of the applicant's invention was well known in the art.

Bertram et al. teaches a second input coupled to receive a second sinusoidal signal having the frequency and a phase; a second multiplier having a first input coupled to the first sensor, a second input coupled to receive a third sinusoidal signal having the frequency and a phase 90 degrees out of phase with the phase of the

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second sinusoidal signal, and an output; a second low pass filter having an input and an output, the input of the second low pass filter coupled to the output of the second multiplier; and wherein the second input of the first amplitude calculator is coupled to the output of the second low pass filter **[column 4, lines 59-62 and fig. 5a and all citations listed above]**. Bertram et al. teaches at least one of the main controller and the touch position calculator configured to determined the frequency (filtered analog signal) of operation from a plurality of frequencies (for each of the four electrodes) **[column 5, lines 35-65]**.

Concerning claim 39, Bertram et al. teaches the first amplitude calculator comprises: a first analog-to-digital converter (ADC) having an input **[column 5, lines 48-51]** and an output **[column 5, lines 52-56]**, wherein the input of the first ADC is coupled to the output of the first low pass filter; and a second ADC having an input and an output, wherein the input of the second ADC is coupled to the output of the second low pass filter **[column 5, lines 46-51]**. A band pass filter can be a low pass filter by passing all the low frequencies and not allowing any high frequencies though, therefore a band pass filter anticipates, or is an obvious variant of, a low pass filter.

Concerning claims 40, 41, 43 and 44, Bertram et al. teaches the touch screen unit comprises a touch screen controller operatively coupled to the first analog-to-digital converter (ADC), the second ADC, and the main controller **[column 6, lines 18-51]**, the touch screen controller **[fig. 4, element 446]** comprising a touch screen processor **[fig. 4, element 450]** and a touch screen memory operatively coupled to the touch screen processor **[fig. 6b, elements 622, 624, 626]**, the touch screen-controller and/or the

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main controller being programmed to calculate an estimate of an amplitude of the signal flowing from the first electrode based on outputs of the first ADC and the second ADC **[column 6, lines 52+]**. Bertram et al. teaches the ADC to convert from all filters, therefore, one ADC completes the job of having multiple ADCs in a circuit. Multiplying parts in a circuit that essentially performs the same function as a circuit without multiple parts was well known to someone skilled in the art at the time of the invention.

Concerning claim 42, Bertram et al. teaches the touch screen controller is programmed to calculate a touch position estimate based on the estimate of the amplitude of the signal flowing from the first electrode; wherein the touch screen controller is programmed to provide the touch position estimate to the main controller **[column 6, lines 15-51]**.

Concerning claim 45, Bertram et al. teaches an analog-to-digital converter (ADC) having an input and an output **[column 5, lines 52-56]**, wherein the input of the ADC is coupled to the first sensor **[column 5, lines 43-46]**, and wherein the output of the ADC is coupled to the first input of the first multiplier and to the first input of the second multiplier **[column 5, lines 20-60]**.

Concerning claim 46, Bertram et al. teaches a gaming apparatus wherein the sinusoid generator further comprises an oscillator configured to generate a signal having a frequency, and wherein the modification device is configured to modify the frequency of operation without a need to change the frequency of the signal generated by the oscillator **[column 4, line 16- column 5, line 34 and figs. 4-6]**.

Concerning claim 47, Bertram et al. teaches wherein the modification device comprises at least one of a multiplexer and a frequency divider **[column 4, line 16-column 5, line 34 and figs. 4-6]**.

Concerning claim 48, Bertram et al. teaches wherein at least one of the touch position calculator and the main controller is configured to determine a plurality of ambient levels corresponding to the plurality of frequencies **[column 4, lines 17-54 and column 5, lines 20-60]**.

Concerning claim 49, Bertram et al. teaches wherein at least one of the touch position calculator and the main controller is configured to determine a minimum value from the plurality of ambient levels **[column 4, lines 17-54 and column 5, lines 20-60]**.

Examiner's Note

The referenced citations made in the rejection(s) above are intended to exemplify areas in the prior art document(s) in which the examiner believed are the most relevant to the claimed subject matter. However, it is incumbent upon the applicant to analyze the prior art document(s) in its/their entirety since other areas of the document(s) may be relied upon at a later time to substantiate examiner's rationale of record. A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. W.L. Gore & associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). However, "the prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed...." In re Fulton, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004).

10. **Response to Arguments** Applicant's arguments filed 12/10/08 have been fully considered but they are not persuasive. Applicant's arguments are drawn to the amendments & are answered in the rejection above

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MANJOT K. DHILLON whose telephone number is (571)270-1297. The examiner can normally be reached on Mon. - Thurs., 7 AM - 6 PM, EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Art Unit 3714

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